

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

October 28, 2011

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:01od-315

OAHU

Amend Prior Board Action dated September 28, 2001, Item D-16; Grant of Perpetual, Non-Exclusive Easement to Luakaha Mauka Community Association for Sewer Line Purposes; Nuuanu, Honolulu, Oahu; Tax Map Key (1) 1-9-007:002 portion

BACKGROUND:

Around 2001, owner of the private property identified as tax map key (1) 2-2-055:012 (Parcel 12) was planning to subdivide the property. In addition to an easement for utility, reservoir, and fire pump station purposes in favor of the owner, the City and County of Honolulu (City) required a sewer easement over the subject State land serving the proposed subdivision.

On September 28, 2001, item D-16, the Board authorized the issuance of a perpetual sewer easement to the City. A copy of the approved submittal is attached as **Exhibit 1**. Subsequently, the easement document was sent to the City for signature. By its letter dated May 2, 2007 attached as **Exhibit 2**, the City requested the sewer easement be issued to the owner, together with the right to assign the improvement and the easement rights to the City. Further, staff understands from the City that in the event the improvement (i.e. the sewer line in the subject case) is built by the private owner, the City requires the easement together with the improvement dedicated to the City directly from the private owner.

For the Board's information, perpetual easement for utility, reservoir, and fire pump station as mentioned above was issued to Luakaha Mauka Community Association by an easement document executed in 2009 (LOD 28869). Staff understands Parcel 12 has been subdivided into six (6) house lots and one (1) road lot. An excerpt from the current tax map attached as **Exhibit 3** indicates the development. Luakaha Mauka Community Association formed by the owners of the subdivision is the entity responsible for the common area and improvement of the subdivision.

The owner has posted a bond with the City to ensure the construction of the improvements required in the subdivision process. Therefore, the owner requests the

Board authorize the changes needed as mentioned in the Recommendation Section before the City agrees to release the bond.

REMARKS:

In view of the policy of the City mentioned above, staff recommends the Board amend its prior action dated September 28, 2001, D-16 by changing the applicant from the City and County of Honolulu to Luakaha Mauka Community Association and the legal reference of the issuance of the subject sewer easement from 171-95 to 171-13, HRS. Further, the easement area is finalized at 9,766 square feet

Further, any easement issued under 171-13, HRS shall be appraised at fair market value and applicant shall pay for the appraisal.

Staff does not have any objection of allowing the grantee transferring the easement to the City at a later date. Therefore, staff recommends the Board amend its prior action by adding a condition to allow the grantee transferring the easement to the City without further approval from the Board.

Further, staff notes that there was no analysis regarding compliance with Chapter 343, HRS in the 2001 submittal. Upon review of the request, staff prepares an exemption notification attached as **Exhibit 4**.

There are no other pertinent issues or concerns.

RECOMMENDATION: That the Board

- A. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
- B. Amend its prior action dated September 28, 2001, item D-16 by:
 1. Changing the applicant from the City and County of Honolulu to Luakaha Mauka Community Association;
 2. Changing the legal reference from 171-95 to 171-13, HRS;
 3. Changing the easement area from 8,643 square feet to 9,766 square feet;
 4. Changing the consideration from gratis to a one-time payment, further subject to an appraisal at the applicant's cost;

5. Allowing the grantee to transfer the subject sewer easement to the City and County of Honolulu without further approval in writing from the Board.
6. All other terms and conditions of the September 28, 2001, D-16 action shall remain in full force and effect.

Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



D-16

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

September 28, 2001

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

OAHU

Grant of Perpetual, Non-Exclusive Easement to the City and
County of Honolulu for Sewer Line Purposes, Nuuanu, Oahu,
Tax Map Key: (1) 1-9-7:portion 2

APPLICANT:

City and County of Honolulu, whose mailing address is 650 South
King Street, Honolulu, Hawaii 96813.

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government Land of Luakaha situated at Nuuanu Valley,
Honolulu, Oahu, identified by Tax Map Key: (1) 1-9-7:portion 2,
as shown on the attached map labeled Exhibit A.

AREA:

8,643 square feet, more or less.

ZONING:

State Land Use District: Conservation
City and County of Honolulu CZO:

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO _____x

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

September 28, 2001.

ITEM D-16

EXHIBIT "1"

CURRENT USE STATUS:

Encumbered by Governor's Executive Order No. 1084 issued to the Board of Commissioners of Agriculture and Forestry on October 30, 1944 for addition to the Honolulu Watershed Forest Reserve - Kuleanas in Kamananiki Valley.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove sewer line over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

By letter dated October 24, 2000, the Department determined a conservation district use application was not required.
Referring to existing Cдуа #OA-2573 and OA-2851. (See Exhibit B)

DCCA VERIFICATION:

Place of business registration confirmed:	YES	_____	NO
Registered business name confirmed:	YES	_____	NO
Applicant in good standing confirmed:	YES	_____	NO

Not applicable, government agency

APPLICANT REQUIREMENTS:

Belt Collins Hawaii, Ltd. as consultants for R.R. Midkiff Luakaha Family Limited Partnership and Elizabeth Midkiff Myers, Trustee under that certain unrecorded Revocable Trust of Elizabeth Midkiff Myers dated April 24, 1989, as amended, shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at their own cost.

REMARKS:

Belt Collins Hawaii Ltd. as the consultant for R.R. Midkiff Luakaha Family Limited Partnership and Elizabeth Midkiff Myers, Trustee under that certain unrecorded Revocable Trust of Elizabeth Midkiff Myers dated April 24, 1989, as amended is in the process of subdividing their fee simple property located at tax map key: (1) 2-2-55:4. The proposed gated subdivision requires the installation of a sewer line from Nuuanu Pali Drive through the State property to the Board of Water Supply (BWS) Lower Aerator site where it will connect to the end of the existing BWS sewer line which connects to the City and County of Honolulu sewer line in the Old Pali Road. The requested easement extends from Nuuanu Pali Drive to Old Pali Road covering both the existing BWS sewer line and the sewer line required for the proposed subdivision.

Starting in 1927 the Territory of Hawaii starting acquiring various kuleanas located within the Honolulu Watershed Forest Reserve. The last kuleana was acquired in 1939. The successor agency, the Department of Land and Natural Resources, Division of Forestry and Wildlife has been managing the subject lands.

Applicants have not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

The Division of Forestry and Wildlife reviewed the proposed easement plans and had no objections or concerns. No other agency or community comments were solicited. There are no pertinent issues or concerns.

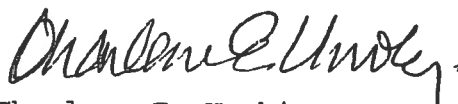
RECOMMENDATION: That the Board:


1. Find that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, the disposition will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to City and County of Honolulu covering the subject area for sewer line purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current

perpetual easement document form, as may be amended from time to time;

- B. Review and approval by the Department of the Attorney General; and
- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- D. Compliance with terms and conditions of CDUA #OA-2573 and CDUA #OA-2851.

Respectfully Submitted,



 Charlene E. Unoki
Supervising land agent

APPROVED FOR SUBMITTAL:

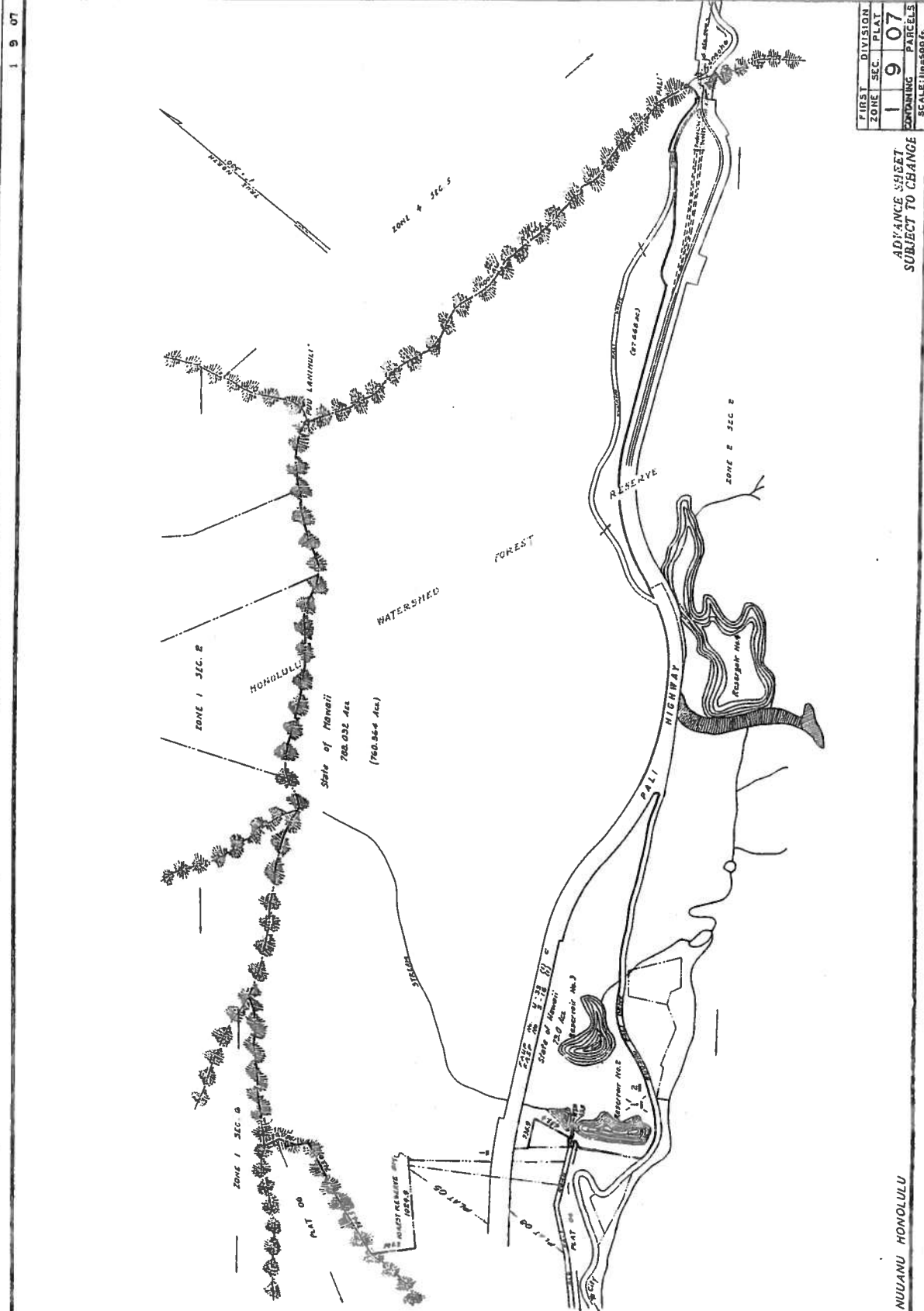


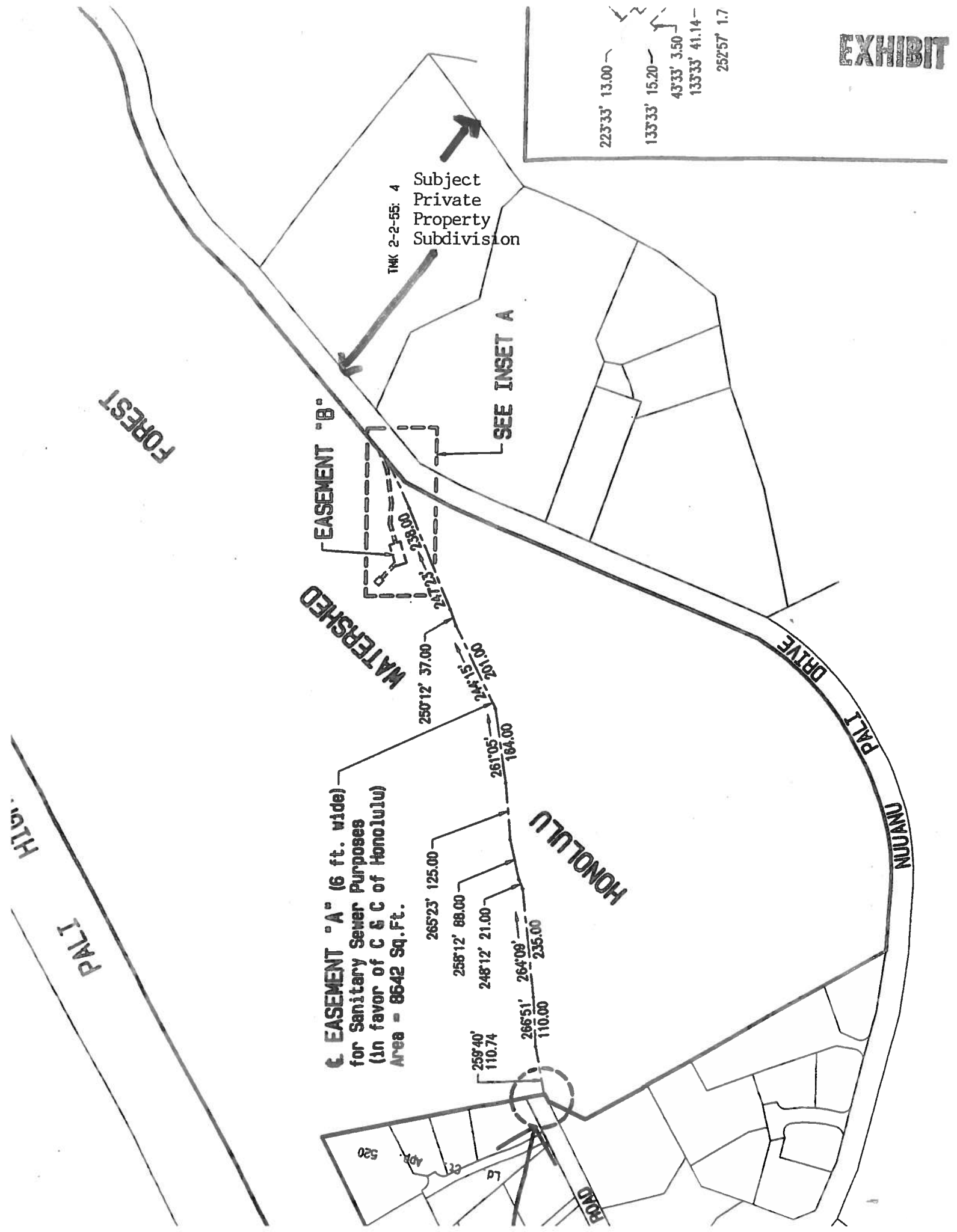
GILBERT S. COLOMA-AGARAN, Chairperson

FIRST	DIVISION
1	9
ZONE	SEC
1	9
PLAT	PARCELS
1	9

ADVANCE SHEET
SUBJECT TO CHANGE

SCALE: 1 in = 500 ft.









STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

LAND DIVISION
P.O. BOX 621
HONOLULU, HAWAII 96809

RECEIVED
OCT 25 P 2:09

EXHIBIT B

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

Ref.: PB: SL

OCT 24 2000

Ms. Cheryle M. Palesh
Vice President
Belt Collins
680 Ala Moana Boulevard, First Floor
Honolulu, Hawaii 96813-5406

Dear Ms. Palesh:

Subject: Proposed Utility Lines at Nuuanu, Oahu

We are in receipt of your October 3, 2000 letter regarding the subject improvements. Based on further review of this matter, we have determined that the subject improvements may be approved in accordance with Section 13-5-23 (L-7) of the Administrative Rules. As noted in your correspondence, the proposed water line and pump station are relatively small structures associated with potential emergency use of the reservoir water. These structures may, therefore, be considered accessory to the reservoir. The potable water line and sewer line are short segments and are minor extensions of the existing water and sewer systems that run within existing roadways and may, therefore, be considered accessory to existing facilities in the area, some of which were improved under existing Conservation District Use Applications (OA-2573 & OA-2851). In addition, you note that these improvements will be dedicated to the appropriate public agencies as part of the subdivision approval process.

ANALYSIS:

Section 13-5-23, Structures, Accessory, specifically allows, "Construction or placement of structures accessory to an existing structure, building or facility under an existing conservation district use permit."

In addition, the proposed project is minor in scope and may be considered an exempt-action under State environmental laws under Section 11-200-8(3)d, Hawaii Administrative Rules (HAR).

Therefore, authorization is hereby granted for the proposed work at Nuuanu, Oahu (TMKs 1-9-07:02; 2-2-55:02 & 4) subject to the following conditions:

1. The applicant shall comply with all ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of Chapter 13-5, HAR;
2. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any-act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under this approval or relating to or connected with the granting of this approval;
3. The applicant shall comply with all applicable Department of Health administrative rules;
4. The applicant shall obtain the approval from the landowners prior to installation of any facilities;
5. In issuing the approval, the department and board have relied on the information and data, which the applicant has provided in connection with the application. If, subsequent to the issuance of the approval such information and data prove to be false, incomplete, or inaccurate, this approval may be modified, suspended, or revoked, in whole or in part, and the department may, in addition, institute appropriate legal proceedings;
6. The applicant shall remit a check for \$50.00 to the Department of Land and Natural Resources to cover the Site Plan Processing Fee prior to release of site plans;
7. The applicant shall comply will all other conditions imposed under CDUAs OA-2573 & OA-2851;
8. Failure to comply with any of these conditions shall render this approval null and void.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty (30) days.

EXHIBIT B

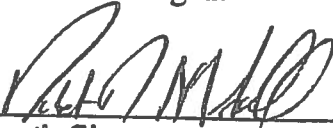
Should you have any questions on any of these conditions, please feel free to contact Sam Lemmo of our Planning Branch at 587-0381.

Aloha,



Dean Y. Uchida, Administrator
Land Division

Receipt acknowledged:



Applicant's Signature

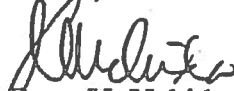
Date Nov 2, 2000

bcc: Chairperson's Office
Oahu Board Member
Oahu Land Agent
BWS
Department of Facilities Maintenance

EXHIBIT 1

Should you have any questions on any of these conditions, please feel free to contact Sam Lemmo of our Planning Branch at 587-0381.

Aloha,



Dean Y. Uchida, Administrator
Land Division

Receipt acknowledged:


Applicant's Signature

Date Nov. 3, 2000

bcc: Chairperson's Office
Oahu Board Member
Oahu Land Agent
BWS
Department of Facilities Maintenance

DEPARTMENT OF DESIGN AND CONSTRUCTION
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 11TH FLOOR
HONOLULU, HAWAII 96813
Phone: (808) 768-8480 • Fax: (808) 523-4567
Web site: www.honolulu.gov

MUFI HANNEMANN
MAYOR



0100-315
EUGENE C. LEE, P.E.
DIRECTOR

CRAIG I. NISHIMURA, P.E.
DEPUTY DIRECTOR

LA 07-206.JK

May 2, 2007

Mr. Al Jodar, Land Agent
Department of Land and Natural Resources
Land Division
State of Hawaii
P. O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Jodar:

Subject: Grant of Non-Exclusive Easement for Sewer Line Over
Portion of State Land, TMK: (1) 1-9-007-002
Midkiff-Myers Subdivision (1999-SUB 38), Nuuanu, Oahu

This is a follow-up to your telephone conversation of May 1, 2007, with my staff regarding the subject matter. We are returning the un-executed Grant of Non-Exclusive Easement to you. As discussed, please issue the grant to the developer with the right to assign the rights to the sewer easement. The City's policy is that the developer dedicates all the required infrastructure and easements together as one package.

You can call Dodie Browne at 768-8733 if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas T. Miyata".

Thomas T. Miyata, Chief
Land Division

DB:jk

Enclosures

EXHIBIT "2"





STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

October 28, 2011

EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Issuance of Perpetual, Non-Exclusive Easement for Sewer Purposes

Project / Reference No.: 01od-315

Project Location: Nuuanu, Honolulu, Oahu Tax Map Key: (1) 1-9-007:002 portion

Project Description: Sewer easement for the subdivision located at (1) 2-2-055

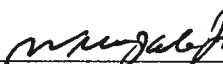
Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1) and (4), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."

The request pertains to a 6-foot wide sewer easement over the subject State parcel. Staff does not expect there will be major alteration in the conditions of the land, water or vegetation at the location.

Consulted Parties Office of Conservation and Coastal Lands

Recommendation: That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.


William J. Aila, Jr.
Chairperson

10/13/11
Date

EXHIBIT 4